



## **Towards Land Policy reforms and Innovations in Southern Africa**

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## TOWARDS LAND POLICY REFORMS AND INNOVATIONS IN SOUTHERN AFRICA

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## ABSTRACT

The Southern African region shares a colonial history that has been characterized by inequitable access to land and resources and has affected the political, social and economic development of these countries. This legal dualism/pluralism in land governance and administration is partly fueling an increasing mismatch between the land reform initiatives being implemented and the associated land policy concepts, by maintaining hierarchical, inequitable and discriminatory land tenure systems.

The NELGA (Network of Excellence on Land Governance in Africa) initiative was established to promote demand driven research on land policy issues and connect scholars and researchers across Africa through academic networks.

This paper presents a project implemented by the NUST-NLEGA Hub at the Namibia University of Science and Technology. The project focuses on a land governance scoping study of the eight participating countries within the region. Each country team developed a report with description and assessment of the national land governance issues. The reports follow a common template describing the land governance issues and identifies the key challenges. The reports, thereby, enables comparison between the countries as well as learning from best practice. This should facilitate further research collaboration and innovation towards meeting the key challenges faced by the countries and within the region as a whole.

The paper presents the key findings in terms of a synthesis report on Land Governance in Southern Africa leading into a Research and Capacity Development Strategy for Land Governance Innovation in Southern Africa that is currently under preparation.

**Key Words:** Land Governance, Southern Africa, Innovation, Capacity Development, Land Policy



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## 1. INTRODUCTION

The diversity of land tenure systems, formal and informal, in southern Africa, create an array of challenges and opportunities for land governance in the region. The Southern African region shares a varied pre-colonial and colonial history, with a legacy of diverse impacts generally on the political, social and economic development, and specifically on the land administration systems of the region. The common denominator of colonialism has been the legacy of inequitable access to land and resources in the region, which continues to influence the structure of land ownership and agriculture based on a system of legal dualism/pluralism.

This legal dualism/pluralism is often premised on some form of customary tenure, typically reserved for the indigenous population, and statutory tenure, generally reserved for the colonial settler populations prior to independence. Generally, after independence this legal dualism has been kept in place, with statutory tenure being maintained for the descendants of the settler population and the new political and business elite, with the customary tenure deemed sufficient for the majority of the disadvantaged poor.

This legal dualism/pluralism in land governance and administration is partly fueling an increasing mismatch between the land reform initiatives being implemented and the associated land policy concepts, by sustaining hierarchical, inequitable and discriminatory land tenure systems. The result is limited success in policy implementation, and a series of unintended negative consequences, exacerbated by institutional constraints to take into account customary and statutory tenure approaches. This increasing institutional complexity creates difficulties for the integration of customary and statutory systems on the periphery of urban and peri-urban areas and generally results in the further marginalisation of the poor, women, ethnic minorities and the youth with regards to land and agriculture.

However, recent land reform initiatives have aimed at redressing unequal land distribution as well as gender equity, wide spread tenure security and protection of the commons against land grabbing and privatisation. The implementation of such policies falls under the domain of land administration, a domain where the capacity of countries in the region is rather low.

## 2. A BASELINE FOR LAND GOVERNANCE IN SOUTHERN AFRICA

In order to address this capacity gap, the NELGA (Network of Excellence on land Governance in Africa) Initiative was established to promote demand driven research on land policy issues and connect scholars and researchers across Africa through academic networks. This project presented in this paper is



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implemented by the NUST-NLEGA Hub at the Namibia University of Science and Technology, and is supported by funding from the Strengthening Advisory Capacity for Land Governance in Africa (SLGA) programme. The German Government in cooperation with the African Union and the World Bank provide the funding through the African Land Policy Centre (ALPC) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), with the goal of improving human and institutional capacity for the implementation of sustainable land policies geared towards growth and development in Africa

The NUST-NELGA Hub is a partnership of leading Southern African universities in support of land policy development, implementation and monitoring. It serves as a key driver for research and capacity building efforts for improving land governance and administration in the Southern African region. Established links and networks with other research and policy thinktanks in the region and internationally, contributes to knowledge development and information sharing about the critical land governance issues affecting the region. While we are not suggesting that this approach will solve all of the problems of land governance in Africa, other researchers (Chigbu, Paradza, & Mwesigye, 2019) have also concluded that this knowledge-hub approach is a critical component for the development of the required capacity in land governance in African countries.

The NUST-NELGA Hub for Southern Africa, together with the partner universities play a leading role in research and outreach for informed policy-making in the field of land governance and administration. The partnership offers a variety of undergraduate, master and doctorate degrees and is now firmly established as a regional knowledge centre, and has become a key driver on land governance matters in the region. The Hub offers an active capacity building programme that includes regular outreach activities, a working paper series, seminars, master classes and regularly hosts international speakers on a variety of topics. The Hub conducts and participates in national and regional dialogues with academia, civil society, research and government organizations.

In order to improve the long-term impact and sustainability of these capacity development efforts, the NUST-NELGA Hub initiated a flagship project on Land Governance in Southern Africa to facilitate and guide research and capacity innovation in the region within the land governance arena. At the continental level a similar approach was also advocated for by Mwathane (2018), on improving land governance capacity in Africa. Country teams were formed by the NELGA partner institutions with eight countries of the region (Botswana, Lesotho, Malawi, Namibia, South Africa, eSwatini, Zambia and Zimbabwe while Angola and Mozambique are still pending) to develop a report with a description and assessment of the



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national land governance issues. This study included more than two dozen researchers and contributors from fourteen academic institutions in the region.



Figure 1: The Southern Africa Region. Source: Google Earth

The research framework is based on a template<sup>1</sup> adapted from the Land Governance Assessment Framework (World Bank, 2012) for the Southern African region. The value of using such a standardized template lies in the fact that it enables comparison at the country level in order to be able to draw inferences for the region as a whole. Using the modified LGAF diagnostic tool, enables in-depth understanding of the major land administration and policy issues within the country as well as further comparison between the countries for identification of best practice and improvements.

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<sup>1</sup> The complete template is provided in Appendix A



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The study provides for the description of:

- i) country context
- ii) institutional framework
- iii) legal framework and land tenure
- iv) land dispute resolution
- v) valuation and taxation
- vi) land use planning and control
- vii) management of public land
- viii) land information

This is a descriptive component providing an overview of land governance in the region based on these major themes. Describing the key characteristics of land governance in the region is the first step in deepening an understanding of the underlying issues that continue to hamper the improvement of land administration systems in the region. This will allow researchers to identify issues that are not only national, but also regional in scope. On the other hand, the description also highlights regional differences, as problems identified in one jurisdiction are often assumed the same in many other jurisdictions.

The second part of the report describes in some detail the key challenges that the countries in the region are facing. These challenges could relate to the institutional framework, the rural or urban land tenure system, the land use planning process, uncontrolled informal settlements or any of a number of issues identified by the country teams.

The draft country reports were reviewed by a panel (the authors of the synthesis report) and presented at the Land Governance Symposium 3-4 September 2019 in Windhoek, Namibia with a focus on country context challenges. The challenges were further discussed in group-sessions and the outcome feeds into the synthesis report. The completed country scoping studies<sup>2</sup> and the derived synthesis report on “Land Governance in Southern Africa” (Bayer, Enemark, & Kirk, 2020) represent a detailed description of land governance in the region. The eight country case studies together with the synthesis report thereby form the basis for future research, capacity development and policy innovation in the region.

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<sup>2</sup> For access to the full country reports, synthesis report and other workshop documentation see the website for the Symposium on Land Governance, 3-4 September 2019, NUST, Windhoek, Namibia at <http://landsymposium.nust.na/>.





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Using such a comparative description allows us to identify key challenges across the region that will enable further targeted research projects at multinational level for improving the land governance concept and discourse within the region as a whole. The project on land governance will serve as a baseline study of land governance for the region facilitating research cooperation, innovation and policy reform towards meeting the challenges being faced in Southern Africa.

### 3. ASSESSING LAND GOVERNANCE IN SOUTHERN AFRICA

The population of the Southern African region is estimated at about 163 million people of which about half live in urban areas. The countries cover an area of 6 million sq. km, just over half the USA that is 10 million sq. km. The average density of the region is about 28 people per sq. km, compared to 36 in the USA. The average rate of urbanisation is about 50 per cent that is rapidly increasing. However, with an exception of Angola, Botswana and South Africa, the region is still predominantly rural, see Table 1.

Country	Area sq. km	Population	Density per sq. km	% pop urban
Angola (ANG)	1 246 700	30 810 000	25	66
Botswana (BOT)	566 730	2 254 000	4	69
Eswatini (ESW)	17 200	1 136 000	66	24
Lesotho (LES)	30 360	2 108 000	69	28
Malawi (MAL)	94 280	18 143 000	192	17
Mozambique (MOZ)	786 360	29 496 000	38	36
Namibia (NAM)	823 290	2 448 000	3	50
South Africa (RSA)	1 213 090	57 780 000	48	66
Zambia (ZAM)	743 900	17 352 000	23	44
Zimbabwe (ZIM)	386 850	14 439 000	37	32
Total SA Region	5 908 760	162 970 000	28	50

Table 1: Statistics of the Southern Africa Region (World Bank, 2018)

The population in the region is growing rapidly, mainly in the urban areas. The increasing rate of urbanisation calls for socio-economic responses to deal with informal settlements mushrooming in urban and peri-urban areas throughout the region. Land governance in terms of land use planning, infrastructure development and security of tenure are key means in dealing with this rapid urbanisation.





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Geographically, Southern Africa includes both tropical and sub-tropical climates with the Tropic of Capricorn running straight through the middle of the region. The region therefore includes a wide biological diversity and grasslands providing excellent grazing for wildlife. The region is also exceptionally well endowed with mineral resources such as copper, diamonds, gold, zine, platinum, although these are not uniformly distributed across the different countries.

As mentioned in the introduction above, the ten countries within the region share a diverse colonial legacy with varied impact on their political and socio-economic development. Most of the countries were colonised under British rule, while Angola and Mozambique were colonised by the Portuguese, Namibia by the Germans and then by apartheid South Africa, and South Africa itself was colonised first by the Dutch and later by the British. Independence was gained at various stages over the period 1960s – 1990s.

This colonial legacy continues to influence the land governance regime in terms of hierarchical, inequitable and discriminatory land tenure systems based on legal dualism. However, recent land reform initiatives have aimed at redressing unequal land distribution as well as gender equity, wide spread tenure security and protection of the commons against land grabbing and privatisation. The implementation of such policies falls under the domain of land administration, a domain where the capacity of countries in the region is rather low.

*“Why has there not been more progress in land governance? Three reasons relate to (a) the technical complexity of land management and administration and the need to make policy trade-offs; (b) the political sensitivity and, in many cases, institutional fragmentation of the land sector; and (c) the country-specific and sometimes local nature of land tenure arrangements that makes simple institutional transplants impossible. Land administration is technically complex and cuts across many disciplines, such as law; information technology; geodesy; geomatics and surveying; economics; urban planning; anthropology; and environmental, social, and political sciences. Some of these fields are rapidly advancing, making it important not to remain with outdated solutions but rather to design systems in a way that anticipates future improvements. A key challenge is also to make trade-offs that help improve overall system performance rather than focus on over-engineered approaches that may be appropriate from a disciplinary perspective but weigh down the system and eventually make it unsustainable. While these trade-offs are ultimately a policy decision, a framework for the land sector can help to identify key areas of concern and guide support for developing an integrated strategy” (World Bank, 2012).*



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There are similarities with regards to the institutional frameworks in the region, with much of it borrowed from the colonial powers, and with little institutional development over the last half century. Land rights are registered in a deeds system for freehold rights, with large tracts of state and communal land being unregistered. Land is still a significant part of the political system with half the countries having no freehold land and all land belonging to the state (ANG, ESW, LES, MOZ, ZAM). Even in countries where land is not nationalised (BOT, NAM, RSA, MAL, ZIM), the state has exerted significant influence in the allocation of land and has significant and increasing land holdings.

The countries have in common a noticeable mismatch between how land reform and the associated land policy concepts have been implemented. This has limited the ability to successfully implementing policies on the ground without triggering severe, unintended, negative side effects. This outcome has been further compounded by institutional constraints that have to respect and balance statutory land legislation with the customary tenure approaches. Customary tenure is becoming more complex and difficult to maintain in rural areas that are absorbed into the peri-urban and urban contexts. This has resulted in women, ethnic minorities and the young generation suffering the most from these new inequalities in access to and use of different land categories.

Partly as a consequence of this legal dualism / pluralism, overlapping and partly competitive land administrative structures are expanding and diverging. The combined effect is often to discriminate against the uninformed urban and rural poor. The situation is further compounded with the continued use of cumbersome, outdated, and time-consuming procedures for surveying, registration and valuation. This discourages urban land development, housing, and the upgrading of informal settlements as well as viable agriculture. Not surprisingly, land rental and sale markets are gaining in importance for land transfers. They are often poorly established on an insufficient and biased information base and lack of regulation. This regularly leads to informal, grey arrangements and corruption. Land related conflicts at all levels are mushrooming and are not being resolved due to limited efficiency of in-court solutions and out of court mediation and arbitration being at early stages only.

Opportunities are emerging to improve and widen the use of conflict resolution mechanisms. However, this will require: intensified capacity development in land- related administration; stronger jurisdiction; the emergence of private valuator and developer businesses; more effective civil society organizations that can act as advocates for the disadvantaged; and more focused, streamlined and timely land registration, land development and land market activities. These essential and facilitating changes can be expected in the near future.



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## 3.1 Key Findings

The country scoping studies identified a number of key challenges as presented in the Synthesis Report on Land Governance in Southern Africa (Bayer, Enemark, & Kirk, 2020). The key findings are summarised below:

### *Legal Dualism*

Legal dualism (statutory vs customary tenure) remains prevalent within the Southern Africa region. The consequences are lack of tenure security for women/ rural poor, ineffective communal resource management, and new land-related conflicts. In this context, the regulatory role of traditional authorities is critical due to tacit arrangements, management of the commons, parcelling, illegal fencing and only partial registration of customary lands. The land administration systems are not able to cope with the customary land holding and informal holding which constitute a majority of the land in the region.

### *Land Tenure Systems and Colonial Legacy*

The colonial legacy continues to influence the land governance regime of all the countries in the region. The land related institutional frameworks have not been adapted to accommodate the range of parallel tenure types that have evolved as a result of the colonisation. Countries need to look into including all land and all tenures in their land administration systems. Rather than using over-engineered solutions, countries should look at introducing Fit-For-Purpose Land Administration Systems that are affordable, sustainable and relatively quickly implemented. This approach is flexible, participatory and allows for incremental improvement over time in response to societal needs and financial opportunities.

### *Ineffective Redistributive Land Reforms*

The implementation of redistributive land reforms to overcome colonial injustice and give land access and tenure security to the poor has resulted in rather mixed outcomes. Ambitious agricultural production goals and modernization have not been achieved and communal lands or informal urban settlements have been largely left out in the process, becoming a future challenge. The unintended effects have been to increase prices for agricultural and peri-urban land leading to a high fiscal burden of the state for compensation.

### *Institutional Reform*

Land-related legal institutions and regulating administration cannot keep up with pressure from rapidly changing tenure systems, the scale of urbanisation and emerging land markets. Most countries in the region are confronted with poorly formed, uncoordinated legal bodies, inappropriate land governance instruments and dysfunctional administrative procedures at all levels. Thus, surveying, registration, valuation and land transfer are costly, unpredictable and prone to corruption. Countries need to rethink and modernise their land institutions.



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## *Informal Settlements.*

Over 1 billion people in the world live in informal settlements, with a significant number in the Southern Africa region. The problem is complex and difficult to solve, but this is not an excuse to ignore this major land issue. The solutions will vary from country to country but will only be obtained through multi-disciplinary approaches and piloting potential solutions before going to scale. Countries need to design and implement programmes and share experiences to significantly reduce this urban affliction.

## *Peri-Urban Areas.*

Customary tenure systems cannot cope with the rapid rate of change in peri-urban areas, including informal settlements. This has resulted in women, ethnic minorities and the young generation suffering the most. Therefore, countries should formulate new policies where the legitimate holding of land in customary areas of the country should be recognized in the formal system. This process should be co-managed through arrangements between the tribal chiefs and the formal governmental land institutions, wherever possible.

## *Management of State and Public Land.*

The implementation of land administration solutions is conventionally driven by the need to support land markets and has an initial focus on administering private land and properties. However, land and natural resources need to be managed as a whole and this requires the usually considerable state and public land holdings to be effectively managed. Otherwise, the significant loss of state and public land will continue through land grabbing and corruption.

## *Gender Equality*

New land policies should place *gender equity* and the rights of women and the poor at the forefront. In many places, national laws, social customs and patriarchal tenure systems prevent women from holding rights to land. Women often rely on their male relatives for access to land. Women's access to land needs first and foremost to be seen as a universal human right, independent of any other arguments in favour of it. New land policies should not just benefit the poor; they must also improve the situation of women.

## *Land Related Conflicts*

Land related conflicts at all levels are increasing and are not being resolved due to limited efficiency of in-court solutions and out of court mediation and arbitration not being adopted at early stages. New approaches to early mediation and arbitration need to be designed and implemented to be very accessible to all.

## *Land Use Planning and Management.*

Urban land management and planning is lagging behind the demands of a rapidly increasing influx of rural migrants. Weak coordination and regulation capacities encourage uncontrolled action of private land developers, and creates conflicts between urban and rural authorities at the urban fringe. Incoherent land



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use and natural resource management in rural areas have direct negative impacts on environmental quality and biodiversity. Climate change impacts and adaptation measures must be embedded in the management processes.

## *Land Information*

Transparent access to comprehensive information about land supports evidence-based policy, more equitable court decisions in land disputes, land reform implementation, efficient land markets, land services and taxation, and reduces corruption. It underlies all activities in land. Countries need to formulate a strategy to quickly create integrated, fit-for-purpose, land information at a national level and provide transparent, ease of access to all.

## *Capacity Development*

A shortage of qualified professional staff at all administrative levels in urban and rural areas remains a major challenge on the way to improve the quality of sustainable land governance. With decentralization, the land administration and management tasks in rural areas become even more challenging, and there is a severe problem for rural municipalities to attract capable staff to the countryside and to retain them. Furthermore, court cases in land tribunals are delayed and cannot be handled adequately. Land professionals within the various professions are also limited and this inhibits Public Private Partnership based solutions.

## *Institutional Development.*

Capacity development is not only about education and training, it also relates to the broader social system within which people and organisations function. Institutional development refers to internal structure, policies and procedures that determine an organisation's effectiveness. The better resourced and aligned the institutional and individual levels are, the greater the potential for growing capacity. Universities have a key role to play in facilitating this more global understanding and designing and undertaking relevant capacity development activities at societal, institutional and individual level.

## *Research Opportunities.*

Universities are also the key drivers of knowledge through *research*. The overall project on Land Governance in Southern Africa includes country scoping studies with a description and assessment of their national land governance issues. The country reports follow a template that enables comparison and learning from best practice within the region. The overall project also forms a baseline for further development and improvement through research activities at national, bilateral or regional level and thereby facing the key land governance challenges as outlined in this report. It is recommended that this baseline be used to monitor and evaluate progress in say five years.



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## 4. ALIGNMENT WITH AFRICAN AND GLOBAL INITIATIVES

Key to the development of the regional strategy is to ensure that it is aligned with and conforms to the broader African and global initiatives on land administration and governance. It will help to ensure that the strategy supports the long terms goals and objectives identified at the African and global level for the improvement of land governance. This is not only important from an operational perspective, but also ensures political buy-in and authenticity from the regional governments and aligns with potential funding opportunities at the regional and international levels.

The major African and international initiatives identified for alignment include the African Land Policy Initiative and the Framework on Land Policy in Africa (AUC-ECA-AfDB Consortium, 2010) as well as the African Agenda 2063 (African Union, 2013), The United Nations 2030 Agenda for Sustainable Development (United Nations, 2015), the Food and Agriculture Organization (FAO) Voluntary Guidelines on Responsible Governance and Tenure (FAO, 2012) and the World Bank Land Governance Assessment Framework (World Bank, 2012).

In 2006 the Land Policy Initiative (LPI) was established and subsequently reconfigured as the African Land Policy Centre (ALPC). It is a joint initiative of the African Development Bank (AfDB), African Union Commission (AUC) and the United Nations Economic Commission for Africa (UNECA). The ALPC has as its goal the use of land as a driver to lend impetus to the process of development on the African continent. The joint initiative though the ALPC had developed the Framework and Guidelines on Land Policy in Africa (F&G) (AUC-ECA-AfDB Consortium, 2010) and received the mandate from the African Union (AU) to use it in support of national and regional land policy processes. The F&G was adopted by the AU member states through their ministers responsible for land in April 2009, and further endorsed by the African Heads of State and Government through the Declaration on Land Issues and Challenges in Africa in July 2009 (African Union, 2009). The ALPC thus seeks to support regional member states to review and/or develop land policies as well as implementing and evaluating these policies. Building on this momentum, the ALPC, the Government of Germany (the Federal Ministry for Economic Cooperation and Development (BMZ) and GIZ), and the World Bank seek to strengthen capacities for land governance in African countries in line with broader strategies for development, peace and security, and environmental sustainability.

Agenda 2063 (African Union, 2013) as set out by the African Union maps out the future development of Africa founded on a “*prosperous Africa based on inclusive growth and sustainable development*”. It highlights the importance of good governance and the rule of law as key principles in the transformation of





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Africa and realizing the African Renaissance. Equitable access to land, secure rights and good land governance have long been championed as the means to improving livelihoods and promoting sustainable economic development in Africa.

The 2030 Agenda for Sustainable Development (United Nations, 2015) creates a framework for the improvement of livelihoods and peace for all people in developing as well as developed countries. The cornerstone of this framework is the seventeen sustainable development goals (SDG's). While the SDG's are interrelated goals, this strategy directly responds to at least 8 of the SDG's. These are; *i) No Poverty, ii) Zero Hunger, iv) Quality Education, v) Gender Equality, xi) Sustainable Cities and Communities, xii) Climate Action, xv) Life On Land, xvi) Peace Justice and Strong Institutions, xvii) Partnership for Goals.*

Responsible governance of tenure is now incorporated as part of the global agenda through the FAO Voluntary Guidelines on Responsible Governance of Tenure (FAO, 2012). These Guidelines are an international “*soft law instrument*” that represents a global consensus on internationally accepted principles and standards for responsible practices on land tenure. The guidelines promote secure tenure rights and equitable access to land as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment. The guidelines thereby place tenure rights in the context of human rights, such as the right to adequate food and housing. With the help of the guidelines a variety of actors can determine whether their proposed actions and the actions of others constitute acceptable practices.

## 5. A STRATEGY FOR THE WAY FORWARD

It is critical that this baseline for the region be used to underpin research and capacity development efforts for land governance innovation in the region. The development of a strategic plan to harness and guide future interventions is an important tool in making sure that efforts are aligned towards the same goal. Such a “Research and Capacity Development Strategy for Land Governance Innovation in Southern Africa” has been prepared for adoption by the NUST-NELGA Hub early may 2020. This strategy is presented in some details below.

There is a multitude of strategic planning models and guides available for organizations that are engaged in strategic planning. The proposed strategic plan must state clearly the goals for the NUST-NELGA Hub over the next five years with regards to the development of research and capacity in land governance. It outlines the means to achieve these goals and the measures by which progress will be measured. The plan is developed along three tiers to ensure the broadest possible participation and to create a shared vision and ownership.





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The first tier is informed by the broad participation of more than two dozen academics at fourteen institutions in eight countries across the region. They described and formulated the key challenges that need to be addressed at the country level. The second tier is the development of an aggregated perspective for the region, based on the country reports, by the editorial board that were not involved at the level of the country assessments. The third tier is the Strategy Steering Committee which is responsible for the overall integration of the key national and regional challenges into an overarching set of strategic goals and targets.

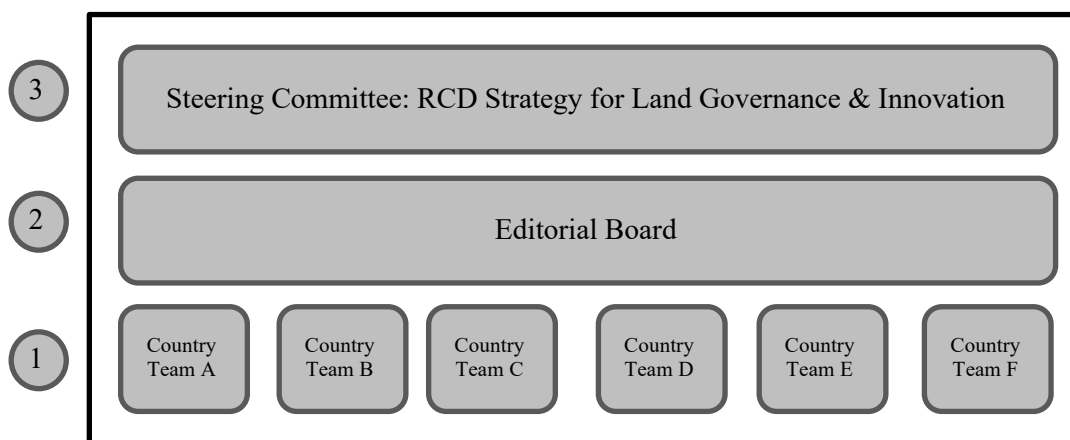


Figure 2: Strategy Development Model

The strategic priority areas that have been identified include research, capacity development, curriculum development and funding. Research and capacity building are intrinsically linked to academic programmes and curricula. This section will briefly describe the preliminary objectives identified for the priority areas of research, capacity and curriculum development as well as the accompanying objectives, actions and indicators that will facilitate the achievement of the strategic priorities.

## 5.1 Research

The Project on Land Governance in Southern Africa has the potential to encourage and facilitate cooperation with regards to research in the land governance arena. The Synthesis Report on Land Governance in Southern Africa identified a number of major research challenges that are prevalent in the southern African region. The main research themes identified are briefly explained below.

- *Land governance and administration* broadly has been identified as being weak and lacking to some extent in the region. This includes the persistent presence of corruption and political interference in the land governance processes at all levels. Understanding the nature and sources of



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corruption is a necessary first step in combatting corruption and developing land administration systems that facilitate sustainable development.

- Investigating the prevailing *land tenure systems* and legal dualism that exists in the region can support the long-term development of legal and tenure reforms that are embedded in the regional developmental needs, which includes rapid urbanization, the role of traditional authorities and the rights of women and minorities.
- *Urban and rural land reforms* in the region have disrupted agricultural production in rural areas, while allocations of land are often disputed and are seen to favour political elites, rather than the citizenry in general and in urban areas informal settlement have continued to grow and essential service provision has been neglected. In peri-urban areas the encroachment of urban development on agricultural and communal areas have not been fully understood or managed.
- The *management of land use* and its changing uses is important for the development of sustainable habitats that support the environment and its people, both in urban and rural settings. This starts with the transparent and effective management of state and public land for the benefit of all citizens, especially with regards to its use, acquisition and alienation. Researchers also need to consider the impact of climate change in urban and rural development as well as the management of natural resources to ensure that there is enough space for living but also for agricultural activities to ensure food security.
- Access to *land information* is vital for land management and decision making, thus research on the development and deployment of appropriate spatial data information infrastructures is a crucial element for ensuring good decision making. Designing such systems that are sustainable in a resource poor context is going to prove a major challenge for researchers.
- The judicial system for *conflict resolution* has shown itself to be typically inaccessible to the majority of persons in southern Africa. Researcher therefore need to find mechanisms for developing and implementing alternative dispute resolution mechanisms that are more satisfactory and provide a cheaper and faster alternative to the traditional judicial and customary systems. A better understanding of the underlying causes of conflicts at all levels is also required.
- *Gender and minority rights* need to be strengthened across the region, as is the need for engaging the youth in agriculture. Increasingly we are also seeing a call for the rights of indigenous people to be restored, including ancestral land claims, and researcher will need to find ways of determining and accommodating these claims along with issues of economic development and the protections of current rights.



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## 5.2 Capacity Development

Developing capacity for land governance in southern Africa is the second strategic priority. The aim is to create a platform for excellence in research and policy development at the general levels for countries to improve their land administration systems. Local authorities and rural organisations struggle to attract staff capable of performing the required tasks, assuming that the human resources are even available, which they often are not. *“Even at the highest levels of government, we find that challenges in the high-level leadership and coordination of land policy change processes continue to bedevil policy development and implementation” (AUC-ECA-AfDB Consortium, 2011).* However, capacity development is not only about education and training, it also relates to the broader social system within which people and organizations function. Institutional development refers to internal structure, policies and procedures that determine an organization’s effectiveness. The main capacity development themes identified are briefly explained below.

- Increasing the number of *qualified professionals* requires an increase enrolment’s in degree programmes across the region and the provision of continuing professional development (CPD) activities for employed professionals to enhance their existing skills.
- *Decentralised land administration services* will require, besides the formal training of students in degree programmes, the development significant training of trainer events to promote and strengthen the capacity of the available staff within the land sector.
- Developing the *institutional capacity* requires a broad approach that not only aims to develop knowledge in academia, but also looks to empower society in general. Collaboration with civil society organisations and policy makers is needed in order to generate policy dialogues and improve understanding and improved capacity regarding land governance matters. In addition, network partners should work together and individually to identify gaps in research competencies and processes in order to address and meet these challenges.
- This can be more readily achieved by creating opportunities for *staff and student capacity development*. Staff and student exchanges is critical for sharing, shaping and developing new and deeper understandings and knowledge on land governance matters.

## 5.3 Curriculum Development

Development of appropriate curricula is a cornerstone of capacity development in order to support research and land governance innovation in the region. A lot is already happening in this area, with the partners in the NUST-NELGA Hub offering everything from undergraduate courses to doctorate level in the area of



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land governance and administration. There are however opportunities for improvement, both in terms of the methodology and pedagogy of teaching, as well as updating and improving the relevance of academic programmes. The main curriculum development themes identified are briefly explained below

- One of the key objectives of the curriculum development is to improve the *topical relevance of curricula* in the region. The proliferation of informal settlements and vital urban development are not sufficiently reflected in curricula as a critical issue, which is often based on planning methodologies that are unsuited to the current situations. Curricula need to incorporate surveying, mapping, and registration of all kind of rights, as well as valuation and taxation methodologies that can accommodate informal settlements and informality in general. Increased emphasis should be placed on new and emerging technologies (open data, big data) to innovate solutions for the problems in the region.
- Universities should strive to update their curricula in order to incorporate *global drivers of change* that affect land administration. These drivers include movements such as globalisation, climate change and the UN Sustainable Development Goals. Increasingly open access software and cheaper hardware is making once prohibitive technologies much more commonly available and affordable. These technologies underpin not only the structure of curricula in the region, but also provide tremendous opportunities for the methods of delivery of the curricula.
- Curriculum design should include more focus on *opportunities for learning*, rather than just teaching e.g. through introducing elements of problem-based learning where the students analyse and assess problems identified in the real world. Problem-based and project organised learning can take place across multiple courses in order to integrate different units of learning. This process of learning and interaction with professional practice can be further encouraged through development of on-line learning platforms serving as a structured knowledge base within specific topics. These approaches provide learners with the opportunity to develop and improve their understanding and ability to work in multiskilled teams, rather than simply learning about a particular topic. Industry partners may also be approached in order to simulate or participate in projects that need addressing in order to further develop the skills and competencies of students in a setting that operate under different rules than typically encountered in academia.
- Partners in the NUST-NELGA Hub should strive to align their curricula in order to facilitate *sharing of experience* e.g. through improved exchange of courses and credit between the respective universities. This will facilitate student and staff mobility as well as enriching the type and variety of courses available to students in their programmes. Development of joint programmes for both



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credit bearing and non-credit bearing courses will further enrich the network of staff and students enabling collaborative teaching, learning and improve the understanding of the issues affecting land governance in the region. Staff and student exchange is a vital ingredient in improving the understanding of land governance, and as such must be encouraged and funded. However, staff and student exchange require a coherent framework of academic activities to be undertaken during such an exchange. Short courses, master classes and other common teaching modules in programmes at partners universities provides a good basis for exchange and cooperation.

## 5.4 Monitoring and Evaluation

A monitoring and evaluation framework should form part of the strategic plan to ensure that progress and can be continuously assessed. It provides a baseline for improvement and a mechanism for reflection and where required, for corrective action and allows us to assess the extensive and varied range of planned interventions for improving land governance and administration in the region.

Given the limited funding available, it is critical that good evidence is available for decision making regarding critical resource allocation decision. At the national, regional, African and global level it also allows the NUST-NELGA Hub to demonstrate progress and achievement as well as shortcomings in order to motivate for funding and provides the ALPC and SLGA, as funders, with the necessary information about the NUST-NELGA Hub to ensure the appropriate level of support.

As such the monitoring and evaluation component of this strategic plan provides the data and information that guides the next strategic plan in an iterative cycle in order to allocate limited resources in the most effective and efficient manner.

- *Strategic initiatives* are the broad areas within which the NUST-NELGA Hub strives to make an impact over the next five years. The strategic initiatives, namely collaborative research, capacity development, curriculum development and improved funding are aligned with African and global initiatives and informed by the requirements and gaps identified in the Project on Land Governance in Southern Africa. The strategic initiatives are supported by a series of related objectives.
- *Objectives* are the means by which the strategic initiatives are to be realised. Each initiative is related to a specified set of objectives.
- For each of the objectives defined, corresponding *activities* have been identified and will form the implementable component of the objectives.



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- In some instances, there is more than one activity per objective. To measure the degree of implementation, each action will have one or more *indicators* associated with the activity. The indicators are the measurable component of the plan, and quantifies or qualifies the outcome that is expected from an activity. The range of initiatives, objectives, activities and indicators are to be captured in the NUST-NELGA Hub “Strategic Scorecard”.

## 6. CONCLUSION

The project on Land Governance in Southern Africa provides a common template for describing the status of land governance for each country in the region. This common framework allows for a comparison and subsequent identification of common problems and key challenges, providing baseline for future research cooperation, innovation and policy reform towards meeting the challenges that emerge from the region. Having identified and described the key challenges, it allows for the development of a research and capacity development strategy, that is aligned with African and international initiatives, to support land governance and innovation. The strategy aims to make tangible and measurable the activities intended to harness and guide future interventions, and is an important tool in making sure that efforts are aligned towards the achievement of the same strategic goals.

Just as importantly, developing a strategy based on a mutual understanding of these regional similarities and differences may allow for a dialogue between African scholars and policy makers on land governance matters. As universities within the region share experiences and cooperate on introducing and testing new ways of educational and curriculum development, so the rewards will be in improved teaching and learning and deepening understanding. It will also serve to build trust and deepen the personal and professional networks that are required to make these strategic priorities and actions sustainable.

Currently the project has generated eight country reports, a Synthesis Report for Land Governance in Southern Africa and a Draft Research and Capacity Development Strategy for Land Governance Innovation in Southern Africa, involving more than a dozen research institutions and over thirty researchers.





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## Appendix A: Land Governance Report Template

### **Template: A Country Scoping Study on Land Governance in Southern Africa.**

Each country partner to prepare a country scoping study of about 50 pages consisting of two parts:

- A. Description and analysis of the land governance framework (about 30 pages)
- B. Identification of the key challenges to be addressed (about 20 pages).

### **A. Draft Template for Description of the Land Governance Framework**

Adapted from the Land Governance Assessment Framework, WB 2012, 40-45 Mainstreaming gender equity, sustainability and capacity. Assessments are based on criteria such as efficiency, equity, affordability, publicity, etc.

#### **1. Country Information**

Overall information about the country in terms of area, population (urban/rural), number of land parcels (urban/rural).

#### **2. Institutional Framework on Land Governance and Administration**

A diagram showing the various institutions responsible for land governance and administration at national, regional and local level. Assessment of the clarity of mandates concerning the regulation and management of the land sector.

#### **3. Legal Framework on Land Tenure**

- 3.1 Tenure regime. The range and types of land rights (tenure types) recognized by law - statutory as well as customary tenure regimes, individual as well as groups' rights, bundle of rights, and secondary rights as well rights held by minorities and women.
- 3.2 Land registration. The models of registration, processes and mechanisms for recognition and registration of land rights - including forms of evidence used to obtain recognition, recognition of long-term possession of both public and private land, the costs and time for typical first-time sporadic registration. Assessment of the degree of completeness.
- 3.3 Enforcement of land rights. The degree of registered individual properties in urban and rural areas. The degree of common properties registered, and communal lands demarcated and registered. Assessment of the degree to which rights are safeguarded.
- 3.4 Expropriation. The process, legal base, legitimacy and transparency of expropriation processes. The degree of fair/full/fair compensation.



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3.5 Equity and non-discrimination. The degree to which policy and decision-making processes are power neutral, non-discriminatory and incorporate equity objectives.

3.6 Land markets. Incentives for support and regulation of land sales and rental markets.

## **4. Land Dispute Resolution**

4.1 Assignment of responsibility. Description of the dispute resolution system and processes at various levels and tenure regimes. The level of equity, accessibility, transparency and opportunity for appeal.

4.2 Conflict management. The effectiveness and costs (including social capital) of conflict management.

## **5. Valuation and Taxation.**

5.1 The principles and processes for different kinds of valuation and taxation. Assessment of the degree of transparency, publicity and effectiveness.

## **6. Land Use Planning and Control**

6.1 Land use planning framework and process. The process at various level of government. Differentiation between regional / local and urban / rural land use planning. Assessment of the effectiveness, level of justification, efficiency, transparency and public participation in urban and rural areas.

6.2 Delivery of services. Assessment of the land use planning process in terms coping with urban growth and timely delivery housing opportunities and services. Addressing infrastructural issues in informal settlements. Assessing effectiveness and efficiency of various actors.

6.3 Development permits. Assessment of processes, time delays, and the predictability of applications for restricted land uses.

6.4 Land use control. Assessment of the degree of monitoring and revision and enforcement of existing planning provisions and other statutory land use and environmental regulations.

6.5 Change and environmental management. The degree to which climate change issues and environmental sustainability are addressed and integrated into the land use planning process.

## **7. Management of Public Land**

7.1 Public land inventory. The identification and management of different types of public land and the degree of publicity.



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7.2 Allocation of public land. The process, purposes and rationale of allocating public land to private use. The degree of transparency, competitiveness and auditing.

## 8. Land Information

8.1 Public provision of land information.

Description of the technologies, inventories and their contents. The degree of publicity, accessibility, currency, completeness and reliability.

8.2 Land administration services. The degree of accessibility and cost-effectiveness.

## 9. References

### B. Identification of the key challenges to be addressed

Within the country context, the key land governance challenges are identified and described in some detail. This may relate to the institutional framework, the rural or urban land tenure system, the land use planning processes, uncontrolled informal urban growth, lack of management of peri-urban areas, the general lack of transparency and equity, etc. Each country team may select just one key challenge to presented and explained – or the team may select several challenges as appropriate for specific country context. The challenge(s) should be presented in style and format as a case study on the key land governance challenge – or challenges – within the country. In turn, this can facilitate identification of further research projects to be undertaken for improving the national land governance concept.